

**THE UNITED REPUBLIC OF TANZANIA  
JUDICIARY  
IN THE HIGH COURT OF TANZANIA  
(DISTRICT REGISTRY OF MBEYA)  
AT MBEYA**

**CRIMINAL APPLICATION NO.20 OF 2022**

*(Originating from Criminal Case No.56 of 2018 of Mbarali District Court at  
Lujewa)*

**BETWEEN**

**EMMANUEL MAHENGE MABULA..... APPLICANT**

**VERSUS**

**THE REPUBLIC.....RESPONDENT**

**RULING**

*Date of Hearing: 16/05/2022*

*Date of Ruling: 16/05/2022*

**MONGELLA, J.**

The applicant is seeking for extension of time within which to lodge appeal out of time. He is seeking to impugn the decision of the District Court of Mbarali at Rujewa rendered on 4<sup>th</sup> March 2019 in Criminal Case No.56 of 2018, which convicted him for the offence of Gang Robbery Contrary to Section 287 of the Penal Code, Cap.16. R.E.2002, as amended by Act No.3 of 2011.

In his affidavit in support of the application he advanced one major reason being lost of control of the appeal process. During the hearing, he



explained that, after being convicted, he was transferred to Kitai Prison in Ruvuma Region. There, he was served with copies of Proceedings and Judgment. He prepared his appeal and handed over the documents to the prison officer. The prison officer informed him that the appeal was sent to Court, but later informed him that the same as rejected. On 30<sup>th</sup> May 2019 he prepared an application for extension of time, but was told that the same did not push through for unknown reasons. He then had to prepare the application at hand and lodge it. Considering the circumstances, he prayed for the application to be granted as he had no control of the appeal process.

The respondent has supported the application on ground of sufficient reason being advanced. This Court as well finds the ground sufficient as it has been decided in a number of cases that being in prison, the applicant loses control of the appeal process thus amounting to sufficient cause for the delay. See: **Buchumi Oscar vs. Republic**, Criminal Appeal No.295 "B" of 2011 (CAT, unreported) **William Ndingu @ Ngoso vs. Republic**, Criminal Application No.3 of 2014 (CAT unreported); and **Maneno Muyombe and Another vs. Republic**; Criminal Appeal No.435 of 2016.

In the premises, the application is granted as prayed. The applicant is given 45 days from the date of this Ruling to lodge his appeal.

Dated at Mbeya on this 16<sup>th</sup> day of May 2022.



  
**L.M. Mongella**

**Judge**

**16/05/2022**

Page 2 of 2